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GENERAL WALTER JONES.*

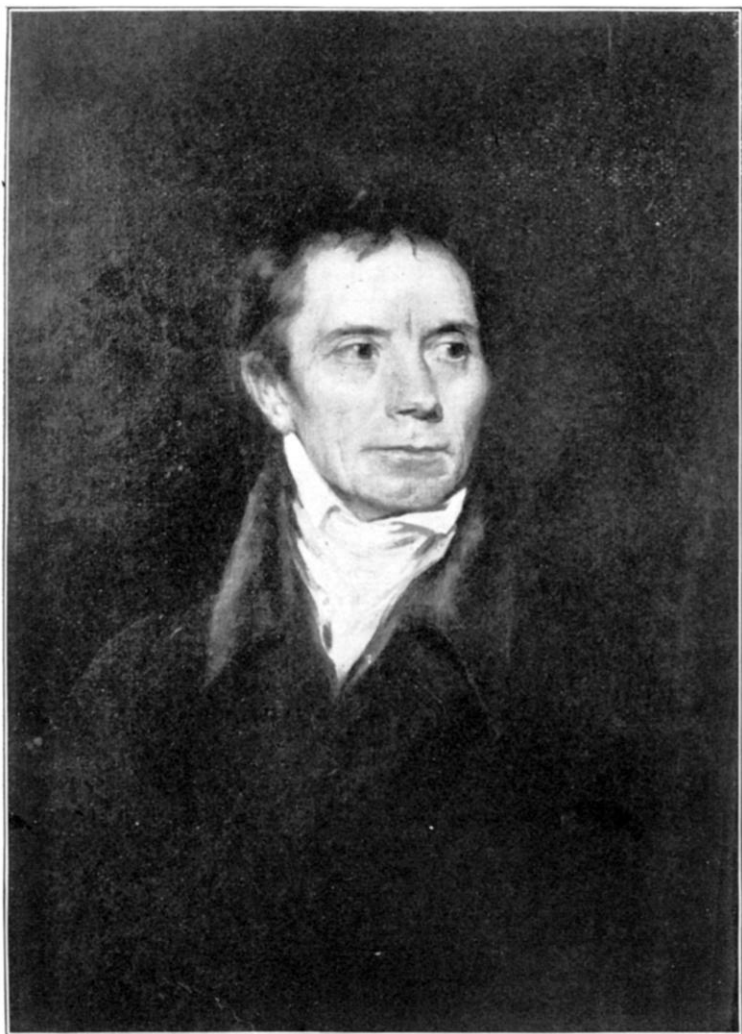
It is a great pleasure to me to revisit the county of my birth and to share with its people their satisfaction at the completion of this adornment of the seat of its courts of justice.

It is my pleasant task, on this occasion, to present to the county of Fairfax a portrait of my grandfather, Gen. Walter Jones, which has been given by three of his granddaughters, namely—Mrs. Stirling Murray, Miss Virginia Miller, and Mrs. Sallie C. Fendall. For the last ten or fifteen years of his life General Jones made his home in the house of Dr. Thomas Miller, of Washington, the father of these three ladies, and they, in the reverent affection for his memory which has come from close association, desire to place a memorial of him in this county, within whose ancient limits he was sometime resident, and whose courts were the scene of some of his important forensic labors.

The portrait now given is a copy by Miss Reading, of Washington, from the original, owned by Miss Miller, which was painted from life by Harding, a well-known artist of the time. Let me add here a few words as to the personal characteristics of the subject, so that as far as possible you may know the man as he was in outward form. He was quite a small man, but of well built and active figure; his features were irregular, but his face was lit up by brilliant and expressive brown eyes. His voice was rich and clear, and so distinct was his articulation that he was easily heard in the largest assembly room. He attained the ripe age of eighty-six years, yet he preserved all his faculties in almost their full vigor to the last. When he was over eighty years of age he rode on horseback from Washington to my father's house in Fairfax county, a distance of eighty miles.

Walter Jones was born at his father's home, known as "Hayfield," in Northumberland county, Virginia, on October 7, 1775. His

* An address delivered at Fairfax Courthouse, Va., May 20, 1901, by Joseph Packard, Esq., of the Baltimore bar, on the occasion of the presentation to the county of Fairfax of a portrait of the subject of the address.



GENERAL WALTER JONES

father, Dr. Walter Jones, was Physician-General of the Middle Department during the Revolutionary War. After the adoption of the Constitution he was during ten years representative of his district in the Congress of the United States, his service having been continuous except for one session. He was a close political friend of Mr. Jefferson, and in the writings of the latter will be found several letters addressed to Dr. Jones; among others, the well-known letter containing a characterization of General Washington. I heard from Jefferson's grandson, Col. Thomas Jefferson Randolph, that Dr. Jones was a man of remarkable ability and good judgment, but that, from excessive diffidence, he seldom made a speech.

Walter Jones, the son, pursued his classical studies as a youth under a Scotch tutor, named Ogilvie, who had come over to this country under the auspices of Mr. Jefferson. His interest in Latin literature thus acquired lasted through his life. He delighted in Livy, and Horace was his constant companion. His copy of the latter, now in my possession, has many notes in his handwriting. He studied law under Bushrod C. Washington, that wise and good man who shortly afterwards was raised to the Supreme Court of the United States, where he sat for over thirty years. In May, 1796, he was admitted to the bar, and about the time of the foundation of the Federal City, as it was at first known, he removed to Washington. In 1802 President Jefferson commissioned him as Attorney of the United States for the District of Potomac, and in 1804 for the District of Columbia, and this latter office he continued to hold until 1821. His reputation at the bar was soon established, and from 1804 on, for near fifty years, the reports of the Supreme Court of the United States show in how many cases he was employed before that august tribunal. It is probably safe to say that the name of no other lawyer appears in so many. Naturally, a large number of these cases were from Washington and from Alexandria, long time a part of the district, for which the Supreme Court was the appellate tribunal. But in many other cases of great national interest he was of counsel for one side or the other. The Girard case and the Gaines case, that romance of litigation, were among those of private importance in which he appeared. The first of the famous cases involving the construction of the Constitution in which he took part was in the *habeas corpus* case (*Ex parte Bollman and Swartwout*), in 1807, growing out of the Burr sedition, and in this case he was opposed to Charles Lee, formerly Attorney General, whose daughter he married in the following year. He was also leading

counsel for the plaintiff in error in the often quoted case of *Martin v. Hunter's Lessee*, in 1816. But the case involving the gravest constitutional questions in which he was engaged was the famous case of *McCulloh v. Maryland*, in 1819, in which the right of a State to tax the Bank of the United States was tested. In that case Walter Jones, with Luther Martin and Joseph Hopkinson, appeared for the State of Maryland, while Webster, Pinkney and Wirt, then Attorney General, appeared for the bank. While the decision of the court was against the State of Maryland, the reader will be struck with the vigor of the argument, as reported, of Mr. Jones for the rights of the States, and will readily concede to him his fair share of the rare encomium passed by Chief Justice Marshall from the bench, when he said that "both in maintaining the affirmative and negative, a splendor of eloquence and strength of argument seldom, if ever, surpassed have been displayed."

Estimates of his force by his contemporaries who met him from time to time as colleagues or antagonists are not lacking. In the exordium of Mr. Pinkney's speech in the celebrated case just alluded to (Wheaton's *Life of Pinkney*, p. 164) he singles out the argument of Mr. Jones for special reply, and says that his speech "was one which the most eloquent might envy, the most envious could not forbear to praise."

The elder Dana's *Life* tells with spirit of some of these great contests which he witnessed, and Rufus Choate speaks of "the silvery voice and infinite analytical ingenuity and resources of Jones."

But besides his work in the Supreme Court, General Jones was engaged in many of the important cases in the courts of Maryland and Virginia. It was not the case then, as now, that a competent local bar was to be found at the county seats, and so counsel from a distance often appeared at the courthouses for the meeting of the Circuit Court. Thus he was engaged in cases of difficulty in this county, in Loudoun and in Prince William. We hear of him in a hotly contested will case at Fredericksburg, and in the case of the will of John Randolph in lower Virginia. He also tried the famous Steenbergen case, involving \$600,000, at Harrisonburg, which is reported in 1 Gratt. (pp. 235, 539) as *Bank of U. S. v. Beirne*.

One of his most notable Maryland cases was that, in the year 1832, of the *Canal Company v. Railroad Company*, reported in 4 Gill & Johnson, which involved the question between the Chesapeake and

Ohio Canal and the Baltimore and Ohio Railroad as to the right of way at the Point of Rocks. The answer of the Canal Company prepared by him is preserved in the report and is of itself testimony as well of his mastery of legal principles as of his copious and elegant diction. As to this case, I quote from a speech delivered in 1885 by Mr. John H. B. Latrobe, of Baltimore, who at the trial assisted Mr. Webster as counsel for the Railroad Company. Speaking of Webster, Wirt, Reverdy Johnson and Walter Jones, after describing Mr. Wirt as "one of the handsomest men of his day," he says: "Walter Jones, with no personal advantages, the quickest, brightest, and probably the acutest lawyer of the four."

I shall close this testimony to his professional standing from those who knew him well, with some extracts from the minute adopted at the meeting of the bar of Washington held on October 16, 1861, two days after his death, prepared by Philip R. Fendall, who, though many years his junior, had known him long and intimately.

"We have ourselves witnessed, our fathers have described to us, and we have delighted to describe to our children, exhibitions of his mental power, which we feel a just pride in believing are not excelled in the annals of any forum, local or national, American or foreign. . . .

"In fond imagination we see our departed friend before us, enforcing some principle of constitutional law, of deep importance to his country, and bringing to the 'height of his great argument,'

. . . All the reasoning power divine,
To penetrate, resolve, combine;
And feelings keen and fancy's glow,

a logic severe and subtle; the most captivating elocution, though little aided by gesture; rich, but never redundant illustrations drawn from extensive and various reading, hived in a memory singularly retentive, and always applied with accurate judgment, and in pure taste. We see him discussing a perplexed case, driven from one point to another, and at length, after an exhausting contest of many days, seeking refuge and finding victory in some new position. We see him engaged in some subordinate topic of civil rights, of no intrinsic importance, but clothed in dignity by the same earnest exertion of his high endowment. We call to mind the time when there were giants in the land—the days of Wirt, Pinkney, Webster, Tazewell, Dexter, Emmett, and other bright names—and we see our departed friend and associate, their admitted peer, and the chosen champion against one or more of them in many a well fought field, descending from the wars of the Titans to this forum here to do battle, with all his strength, for some humble citizen in some humane cause; and often too with no other reward than the consciousness of doing good, and the gratitude of the client. His heart ever warmed to resist injustice; his spirit ever kindled against the arrogance of power; his ear was never deaf to the cry of the oppressed. We see him again, thrown suddenly into a cause with imperfect, perhaps not any, knowledge of the facts, and by the exercise

of the faculty of abstraction, which he possessed in so wonderful a degree, study and master the whole case while in the act of speaking. We feel that achievements so hazardous could be possible to a mind only of extraordinary native energy, and of which the faculties had been brought by habits of constant discipline into absolute subjection to the will of its possessor. It was this faculty of calling into instant action all the resources of an intellect so vigorous, so astute, so comprehensive, so fertile, so abundant in the learning of his profession, so familiar with general science and literature, which led one of his most illustrious competitors to remark that if an emergency could be supposed in which an important cause had been ruled for immediate trial, and the client was driven to confide it to some advocate who had never before heard it, his choice ought to be Walter Jones.

"The moral were aptly combined with the intellectual elements in the character of the deceased, which constituted him a professional model. Though a close and sometimes subtle, he was always a fair reasoner. Magnanimous in his preëminence, he was placable when the momentary irritations incident to forensic discussion had subsided; candid in construing the motives and conduct of others; a courteous, and to the younger members, especially, of the bar, a liberal, adversary. The reports of the Supreme Court are the chief of the several imperfect records of his fame. In them may be seen distinct, however faint, traces of a master mind.

"But it was in the social circle, as in the case of Dr. Johnson, that its characteristics are most conspicuous. The 'careless but inimitable' beauties of his conversation gave delight to every listener. A stenographer might have reported it with the strictest fidelity, and yet nothing would have been found to deserve correction. His most casual remark was in a vein of originality, and couched in terms terse, succinct, sententious, and of the purest English. He always used the very word which was most appropriate to the thought; and, as has been said of another, every word seemed to be in its proper place, and yet to have fallen there by chance. An habitual student of the philosophy of language in general, and of the English in particular, he was impatient of the pedantries and affectation which he saw defiling his mother tongue. No writer nor speaker had a keener sense of the force of the English idiom; nor Swift, Chatham, nor Junius knew better that words were things.

"He was the political disciple of Madison, and the cherished friend of that virtuous statesman, as he was also of Marshall and of Clay. His knowledge of the history of his country, derived from personal intercourse and observation as well as from reading, was ample and accurate. Public spirited, he was prompt, even in his busiest years, to coöperate in enterprises and establishments, civil and military, having for their object the public good."

I can add nothing to this beautiful sketch drawn by the skillful hand of his friend, except to say that I believe it to be accurate and just.

I have mentioned that General Jones had been a resident of this county as it formerly was, and it remains that I shall briefly explain how this came about. As I have stated, he married the daughter of Hon. Charles Lee in 1808, and she received as part of her patrimony

her father's former residence on Washington street in Alexandria, being the same house in which Robert E. Lee, her father's nephew, spent his boyhood. The vestry of Fairfax parish, of which Christ Church, Alexandria, was the church building, owned a glebe near the Chain Bridge, in that part of Fairfax, which is now known as Alexandria county. The title of the vestry to this property was, about 1815, confirmed by the Supreme Court of the United States in the case of *Terrett v. Taylor*, in which General Jones was one of the counsel. Some time after this General Jones and his wife deeded the Washington street house to the vestry, in exchange for this glebe, and the glebe remained as the summer home of the family for a number of years.

The military title of Walter Jones was derived from his command of the militia of the District of Columbia. His only active service in this capacity was in the defense of Washington in 1814, when the hastily summoned levies of untrained men were forced to retire before the veterans of the British army. It was little to the discredit of the Americans that such was the case. The only shame in that campaign is to the victors, who celebrated their success by burning the President's house and the Capitol, including its library, which, by all rules of civilized warfare, should have been held sacred.

The descendants of Walter Jones, including three of his children who yet survive, deem it a high privilege that his portrait shall hang on the walls of the courthouse of this historic county. The kindly, brave and high minded family from which the county takes its name, and of whose domain it was once a part, have presented a type of the traits of character which have ever been held in esteem by its citizens. To Mount Vernon, which his brother had acquired through marriage with one of the Fairfaxes, came George Washington in his early manhood, and from that time till his death he bore his part in what concerned his county. This Mount Vernon, which was looked upon by his contemporaries as the home of their first citizen, is now one of the spots to which all the world looks with reverence. Near him, at Gunston, lived George Mason, who like Washington was faithful in his duties as a citizen of the county. If any impartial person were asked to name twelve men who were leaders in the American Revolution, he would surely include in the list these two men, and no other spot in America of equal size can name more, if so many.

I hope and believe that future generations will not diminish the fame of a county so illustrious.